A New Procedure for Dealing with Lawyer Incivility

Lawyers and Judges Can Now Enlist the Assistance of the CMBA’s Professionalism Conciliation Panel

BY HEATHER ZIRKE

You open your email to find another message from opposing counsel informing you that he plans to seek a fifth continuance of your case. This lawyer has already caused significant delays, costing your client thousands of dollars, and refuses to discuss stipulations even though there is no real dispute between the parties. You don’t want to file a grievance and you’re not even sure if these problems amount to a violation of the ethics rules. What should you do?

Or, you and another lawyer are continually fighting over objections and questions at depositions. What can be done?

The CMBA now has a Professionalism Conciliation Panel to help improve the deportment of lawyers in Cuyahoga County in their interaction with each other and with courts. The Panel will use the Statement of Professionalism issued by the Supreme Court of Ohio in 1997 and the Lawyer’s Creed of Professionalism adopted by the CMBA in 2013 as the guiding principles for the new program.

A lawyer or judge may call the CMBA if they believe the conduct of a lawyer, or of multiple lawyers, has been inconsistent with the Principles of Professionalism and that the assistance of the Panel may help alleviate the situation.

After that, the Panel member will contact the lawyer who is the subject of the call. The identity of the caller who made the report will be given to the lawyer unless circumstances warrant keeping the identity of the caller confidential.

If the Panel member decides the behavior complained of by the caller is inconsistent with the Principles of Professionalism, the Panel member may provide a copy of the applicable principle to the lawyer as a means of persuading the lawyer to change his or her conduct. The Panel member may take further steps as needed to help resolve the situation through informal discussions, counseling, mediation or other action to help the lawyer act in a manner consistent with the Principles of Professionalism in the future.

The same procedures are available if a judge informs Bar Counsel that two lawyers can’t seem to agree on procedural matters and that both lawyers might benefit from meeting with a Panel member.

The conciliation process is confidential and is entirely voluntary. The purpose of the conciliation is to improve the atmosphere or climate in which lawyers are interacting with each other or with the court, and should not be deemed to be an alternative forum for resolving the underlying legal dispute.

The CMBA strongly urges all Cuyahoga County lawyers and judges to make use of this new program and to thereby help improve the level of professionalism in this community. Therefore, do not hesitate to call Bar Counsel if you have a situation that you believe can benefit from this procedure or if you would like further information.

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PROFESSIONALISM CONCILIATION PANEL

The distinguished Panel members appointed by CMBA President Anne Owings Ford to carry out the purposes of the Panel are:

Deborah A. Coleman
Frank R. DeSantis
Marvin L. Karp
Barbara K. Roman
Karen E. Rubin
Niki Z. Schwartz
Roger M. Synenberg
Adrian D. Thompson
Michael N. Ungar